

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Jewish Community of Amherst c/o Mark Israel

Date application filed with the Town Clerk: December 16, 2008

Nature of request: Request Special Permit to install a free standing sign larger than 12 sq. ft. under Section 8.101 of the Zoning Bylaw.

Address: 742 Main Street (Map 15A, Parcel 12, R-G Zone)

Legal notice: Published on December 24 and December 31, 2008 in the Daily Hampshire Gazette and sent to abutters on December 22, 2009

Board members: Barbara Ford, Albert Woodhull, Tom Ehrgood

Submissions:

- One (1) copy of the Memorandum, ZBA FY2009-00019, dated May 15, 2009, prepared by staff;
- One (1) copy of the application, filed with the Town Clerk on December 16, 2008;
- One (1) copy of a completed Management Plan;
- One (1) copy of a packet of materials, dated May 21, 2009, containing a photograph of the building with proposed sign shown, project description, sign plan with dimensions and product specifications;
- One (1) copy of an email from Jonathan Tucker, staff liaison to the Historical Commission, containing a summary of the initial Historical Review, dated January 6, 2009, submitted by staff;
- One (1) copy of the minutes of the January 27, 2009 meeting of the Historical Commission, submitted by staff;
- One (1) copy of site photographs, dated May, 2009, showing the approximate location of the sign, submitted by staff.

[Note: The applicant originally submitted an application for two (2) signs with a total area greater than 12 square feet, under Section 8.101 of the Zoning Bylaw. The proposal included two (2) signs, both mounted on the façade of the building facing Main Street.

Prior to appearing before the Zoning Board of Appeals, the Historical Commission informally reviewed the proposal during the meeting of January 5, 2009. The Historical Commission discussed the plan and determined that the plan required further review by the Historical Commission.

As a result, the applicant requested the Zoning Board of Appeals to continue the hearing scheduled for January 8, 2009 to a new date certain. On January 8, 2009, the Zoning Board of Appeals voted to continue the public hearing, without taking evidence, to February 26, 2009.

On January 27, 2009, the applicant presented the proposed signs to the Historical Commission. The Historical Commission voted to recommend that no signs be placed on the building due to its historical importance.

Based upon the recommendation of the Historical Commission, the applicant requested the Zoning Board of Appeals continue the hearing scheduled for February 26, 2009 to April 2, 2009. No new information was available for the April 2, 2009 public hearing and the Board voted to continue the public hearing to May 20, 2009.]

Site Visit: May 18, 2009

Barbara Ford, Albert Woodhull and Tom Ehrgood met with Kitty Axelson-Berry, a representative of the Jewish Community of Amherst, at the site. The Board observed the following:

- The location of the existing building situated on the north side of Main Street, bordered by commercial property to the east (Amherst Glass) and a residential apartment building to the west and in close proximity to the intersection of Main Street and South East Street;
- The location of an existing PVT bus stop situated in front of the existing building;
- The location of an existing stone stairway leading from a sidewalk adjacent to Main Street up towards the front doorway of the existing building;
- The front yard area of the property containing an area of evergreen shrubs on each side of the existing stairway which obscured the location of the proposed sign;
- The existing slope of the front yard which goes up to the building from the sidewalk;
- A stone staircase and elevated stone patio, on which the sign is proposed to be located;
- The approximate location and height of the proposed sign, to be located directly in front of an existing stain glass window.

Public Hearing: May 20, 2009

The petition was presented by Mark Israel and Kitty Axelson-Berry. For the public hearing, an undated photograph was submitted showing a similar sign that was once located at the front of the building.

Mr. Israel stated the following:

- The Jewish Community of Amherst has prepared a revised sign plan for the synagogue based on the recommendations of the Historical Commission;
- The proposed plan is now to install a free standing sign in front of the portion of the building facing Main Street located on the existing stone patio;
- The sign will consist of a commercial letter board that will be used for posting JCA announcements and special events and a header board stating "Jewish Community of Amherst";
- The commercial letter board will be constructed of an Anodized aluminum frame and will have a black background, as shown on the product specification sheet, and will display white letters ranging in size from 1 to 3 inches;

- Above the letter board will be an internally lit header board with a white background containing permanently affixed black lettering;
- The size of the letter board and header board is about 12 sq. ft., however, the size of the sign includes the area beneath the sign board and in between the posts;
- Because the area below the sign is included in determining the size, the sign is larger than is allowed without a Special Permit;
- The sign is also taller than 4 feet, the maximum height for a sign in a residential Zoning District;
- The entire sign structure will be about 56” tall [approximately 4.5 feet] and 60” wide as shown on the sign plan;
- The sign will be located in the center of the existing stone patio and directly in front of the south side of the building;
- The sign is proposed in this location to try to replicate the sign that used to be located close to the front of the building;
- The Jewish Community of Amherst would be responsible for maintaining the sign and keeping it in good repair, as stated in the Management Plan;

Mr. Israel stated that the Bylaw measures a signs height from grade and asked the Board if the height of the sign would be measured from the top or the bottom of the patio.

Mr. Bagg stated that the Building Commissioner determined that if the sign would be positioned in the middle of the patio grade would be determined to be the top of the patio.

Ms. Ford asked if the top of the sign would obstruct the window. Mr. Israel stated that it would not obstruct the actual window, but may be as tall as the existing sill.

Mr. Woodhull stated that during the site visit, Mr. Bagg showed the Board the approximate height of the sign and that it partially covered the bottom of the window sill.

Ms. Axelson-Berry stated that at the site visit, the Board noted that the lettering on the sign should be large enough so as to be readable by passing motorists. She stated that the lettering on other signs, such as bus stops, street signs and mailboxes range in size from 3 inches to as small as 1.5 inches and are all readable to people passing by.

Mr. Israel noted that the lettering to be placed on the letter board would range from 1 inch to 3 inches in size and that they would determine which size would be the most readable. He stated that the posts will be white and constructed wood.

Ms. Ford stated that the applicant may wish to consider altering the design on the top of the sign to be more in line with the architecture of the building.

Mr. Israel stated that he did not know exactly what the final design will be for the top of the sign.

Mr. Israel stated that the maintenance of the sign will be the responsibility of the Jewish Community of Amherst, as indicated on the Management Plan.

Mr. Israel noted that the height of the sign will be approximately 4.5 feet and is positioned so that it is centered on the stone patio. The location is an attempt to replicate the location of the sign that was previously on the property. He added that the sign will be lag bolted to the stone patio to reduce disturbance to the surface.

Ms. Ford stated that the purpose of the sign should be such that people can read it. She asked whether Mr. Israel had considered placing the sign in any other locations.

Mr. Israel responded that they had considered the front yard area as a possible location, but the sign was proposed on the patio to more closely replicate the previous sign, which was located closer to the front of the building.

Mr. Ehrgood stated that, in his opinion, the location of the proposed sign [on the patio and immediately in front of the building] was the aesthetic and functional equivalent of attaching the sign to the building. Mr. Ehrgood added that the location of the sign so close to the building seems to be inconsistent with the recommendations of the Historical Commission. He stated that he is disinclined to approve the sign in the proposed location as he believes that the Historical Commission recommendation was to prevent aesthetic impacts to the façade of the building.

Ms. Ford stated that she agreed with Mr. Ehrgood and that the location of the sign, immediately in front of the building, creates the appearance that the sign is on the building and would prefer to see the sign in a different location.

Mr. Israel stated that the old sign was further from the building and near the center of the property. However, the new sign cannot be placed where the old sign was because the walkway configuration has changed.

Ms. Axelson-Berry asked the Board members if there was a location that would be more appropriate.

Mr. Ehrgood stated that he feels that JCA should not be restricted from having a sign, and that he is generally accepting of the proposed size and design. He added that perhaps the sign would be better served if placed in the front yard adjacent to Main Street.

Ms. Ford stated that the sign would be difficult to see located so close to the building and that if the sign were closer to the road it would be more useful and more readable.

Mr. Israel stated that they would be agreeable to considering a different location for the sign, perhaps closer to the road, as suggested.

Ms. Ford asked if any members of the public would like to speak regarding the application.

Louis Greenbaum, 298 Montague Road, stated that he is a member of the Historical Commission. He stated that the Historical Commission had not reviewed the currently proposed plan, but the Commission reviewed the original proposal that included lettering across the front façade of the building which stated “Jewish Community of Amherst” and a Star of David with the lettering “JCA”.

Mr. Greenbaum stated that the Historical Commission was particularly concerned with signs because they were to be affixed to the building. He added that the building is a key historical component to the East Amherst Village and that the building has a long and enduring history. He added that the Commission voted to recommend that no signs be placed on the building. Mr. Greenbaum commended Mr. Israel for revising the sign plan so that the sign is no longer on the building.

Mr. Greenbaum asked whether the Star of David, shown on the proposed sign plan, was part of this application.

Ms. Ford noted that the Star of David was not part of the application before the Zoning Board of Appeals.

Mr. Bagg stated that the Building Commissioner determined that the Star of David is a “symbol” that does not contain any lettering and therefore is not considered a sign under the Zoning Bylaw. He added that the applicant is currently pursuing a building permit for the Star of David and that, because it is not considered a sign, it is not under the jurisdiction of the Zoning Board of Appeals.

Ms. Ford stated that she is willing to allow a sign that is larger than allowed in a residential zoning if the applicant would be agreeable to installing the sign in a different location.

The applicant stated that they would be willing to consider a different location, away from the front of the building.

Mr. Ehrgood MOVED to close the public hearing. Mr. Woodhull seconded and the Board VOTED unanimously to close the public hearing.

Public Meeting:

The Board spent the remainder of the public meeting to review and craft conditions for a Special Permit if the application were to be approved.

The Board identified that they think the sign would be more appropriately located if it were in the front yard and closer to Main Street.

The Board reviewed a Town GIS aerial photograph showing the existing building and its location relative to Main Street. The Board determined that they were willing to allow the applicant to place the sign in the front yard and identified an area of approximately 10 feet x 20 feet where they felt the sign would be suitably located.

The Board marked up the GIS map with the approximate area and noted that it should not be directly adjacent to the sidewalk, should not be in close proximity to the building and should not obstruct the view of any vehicles. Additionally, the Board noted that, by allowing the sign to go generally within the area shown, the Building Commissioner would have authority to review the final location. The Board agreed that if upon submission of a building permit application the location of the sign is substantially different, the plan would have to come back to the Board at a public meeting.

The Board agreed with the design of the sign. The Board specified that the background of the letter board should be limited to black and contain only white lettering. The Board agreed that the background of the header board should be white with black lettering indicating "Jewish Community of Amherst". The Board noted that only the header board would be allowed to be interior lit, as shown on the submitted product detail sheet.

Regarding the design of the top of the sign, the Board agreed that some minor changes to the top of the sign would be acceptable, so long as the maximum height of the sign is no taller than 56 inches, as shown on the sign plan.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses in the vicinity. The amended location of the sign in the front yard and as shown on the amended site plan, is more suitably located than originally proposed and contributes to the visibility and functionality of the sign. The sign is compatible in size, location and in function to other existing signs located along Main Street. The Board has determined that the sign is an important tool for the Jewish Community of Amherst and that locating the sign in the front yard, as opposed to directly in front of the building, will be more consistent with the recommendations of the Historical Commission to preserve the historical character of the existing building.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site. The location of the proposed sign was modified by the Zoning Board of Appeals to move the sign away from the existing building. The Board determined that a sign located in the front yard would be more effective, readable and would be more compatible with recommendations from the Historical Commission.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets. The Zoning Board of Appeals has identified an approximate area for the sign that would be more easily read and seen by both pedestrians and motorists. The location shall not obstruct the view of motorists exiting adjacent driveways. The Board amended the site plan to show an area for the sign to be located which will allow the Building Commissioner final discretion in reviewing the signs final location.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use. The sign will be located as to increase its visibility, function and effectiveness. The maintenance of the sign shall be the responsibility of the Jewish Community of Amherst as stated in the approved Management Plan.

10.392 – The proposal provides adequate landscaping. The proposal does not include any provision for additional landscaping. The Board determined that the existing landscaping and lawn area were sufficient and that no additional landscaping is required.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting. The sign includes an internally lit header board which will illuminate the words “Jewish Community of Amherst”. The area of the sign to be internally lit is minimal and the Board required that the illumination be turned off before midnight, daily. The Board determined that the lighting associated with the sign is compatible with the neighborhood, given the sign’s proximity to a busy intersection and the sign’s location in close proximity to the commercial property to the east.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity. The Board determined that the sign should not be located immediately in front of the building, as originally proposed, in order to be more compatible with the recommendations of the Historical Commission. The size and design of the sign are compatible with the existing building and with other signs in the neighborhood.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw and protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. The size, location and design of the sign allows for the installation of a sign that is compatible with the existing building, property and within the context of the neighborhood. The allowance of an identification and directional sign identifying the Jewish Community of Amherst is compatible with the intent of the sign regulations of the Zoning Bylaw.

Public Meeting – Zoning Board Decision

Mr. Woodhull made a motion to APPROVE the permit, with conditions. Ms. Ford seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2009-00019, to a sign of a size greater than 12 sq. ft. and taller than four (4) feet under Section 8.101 and 8.103 of the Zoning Bylaw, as requested in the application submitted by Mark Israel on behalf of the Jewish Community of Amherst, at 742 Main Street (Map 15A, Parcel 12, R-G Zoning District), with conditions.

BARBARA FORD

ALBERT WOODHULL

TOM EHRCOOD

FILED THIS _____ day of _____, 2009 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2009.

NOTICE OF DECISION mailed this _____ day of _____, 2009
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2009,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants Special Permit, ZBA FY2009-00019, to install an oversized sign, greater than 12 sq. ft. in area and taller than four (4) feet under Section 8.101 and 8.103 of the Zoning Bylaw, as requested in the application submitted by Mark Israel on behalf of the Jewish Community of Amherst, at 742 Main Street (Map 15A, Parcel 12, R-G Zoning District), with the following conditions:

1. The sign shall be located within the area outlined on the site plan [Town GIS aerial map] stamped approved by the Zoning Board of Appeals on May 20, 2009. The location of the sign shall not be immediately adjacent to the sidewalk, nor in close proximity to the building and shall not be located as to obstruct the view of any passing motorists. The Building Commissioner, upon submission of a building permit application, shall determine whether the location of the sign is in conformance with the area shown on the approved site plan.
2. The sign shall consist of white wooden posts and entablature and shall be constructed in accordance with the sign plan approved by the Zoning Board of Appeals on May 20, 2009.
3. The background of the letter board shall be black and shall contain white lettering ranging in size from 1 to 3 inches. The background of the header board shall be white with black lettering indicating "Jewish Community of Amherst" and shall be in accordance with the product information sheet approved by the Zoning Board of Appeals on May 20, 2009.
4. Only the header board shall be interior lit and the lighting fixture shall be turned off before midnight, daily.
5. The height of the sign shall not exceed 56 inches and the width of the sign shall not exceed 60 inches.
6. The sign shall be maintained in good aesthetic and operational condition. Such maintenance shall be the responsibility of the Jewish Community of Amherst, in accordance with the Management Plan approved by the Zoning Board of Appeals dated May 20, 2009.
7. Any substantial change to the color, material, location or function of the sign shall be submitted to the Zoning Board of Appeals for review and approval at a public meeting.

BARBARA FORD, Acting Chair
Amherst Zoning Board of Appeals

DATE